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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/089,788	10/28/2002	Barry Reginald Hobson	780/9-1663	1095
7590 11/01/2004 William J Sapone Coleman Sudol Sapone 714 Colorado Avenue Bridgeport, CT 06605-1601			EXAMINER SELF, SHELLEY M	
			ART UNIT 3725	PAPER NUMBER

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,788

Applicant(s)

HOBSON, BARRY REGINALD

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed on July 8, 2004 has been considered but is ineffective to overcome the prior art reference and an action on the merits follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. T claim recites the limitation "said lower axial" in line 5. There is insufficient antecedent basis for this limitation in the claim.

With regard to claim 29o, the skirt has not been positively recited. It is unclear as to whether the skirt and side wall are the same or separate and distinct components of the grinding head. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 21, is rejected under 35 U.S.C. 102(e) as being anticipated by Mariutti (6,209,809).

Mariutti discloses a grinder head comprising: a grinding bowl (22) for holding a charge of material to be ground and having a boss (38) fixed to a bottom wall (26) of the bowl and projected into the bowl (22); and a grinder ring (34) locatable over the boss and freely moveable within the bowl (col. 3, lines 24-40), said grinder ring, boss and bowl being relatively dimensioned so that when an inner circumferential surface of the grinding ring contacts a side wall of the boss, an outer circumferential surface (figs. 2-13) whereby the grinder ring is freely moveable within said bowl without contacting the side wall of the bowl.

With regard to claim 23, Mariutti discloses said grinder ring (34) has a lower axial end which is disposed nearest said bottom wall (26) when said head is in use, and an opposite upper axial end, and wherein a portion of the outer circumferential surface of said grinder ring (34) adjacent said lower axial end is substantially conical in shape, the conical shaped portion decreasing in a direction from the lower axial end toward the upper axial end (fig. 2,3).

With regard to claim 24, Mariutti inherently discloses a handle, i.e. the top of the grinding ring serves as a handle for handling/manipulating the grinding ring.

With regard to claim 26, Mariutti discloses said side wall of boss and inner circumferential surface of said grinder ring are relatively shaped to coact with each other for grinding a portion of the charge therebetween

With regard to claim 27, Mariutti discloses said side wall of said boss and said inner circumferential surface of said grinder ring are relatively shaped to that on contact of said inner circumferential surface of said grinder ring with said side wall of said boss said grinder ring is

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urged to ride up said boss so that said grinder ring orbits in an inclined plane about said boss, forming a moving zone between said lower axial end of said grinder ring and said bottom wall of the bowl for grinding the charge of material..

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mariutti (6,209,809) in view of Hobson (5,556,044). Mariutti does not disclose the handle to be formed of an inflexion. Hobson teaches in a similar art the use of a grinding bowl, ring having an inflexion formed about the outer circumference (fig. 3,6,7) and lid for grinding a charge of material between the bowl body and the grinding ring (figs. 1,2). Hobson also teaches this construction for ease of handling the grinding ring and for improved grinding. Because the references are from such a closely related art, it would have been obvious at the time of the invention to one having ordinary skill in the art to provide Mariutti's grinding ring with an inflexion for improved handling as taught by Hobson.

Claims 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mariutti (6,209,809). With regard to claim 28, Mariutti does not disclose the boss to be detachably fixed to said bottom wall of said bowl. It would however, have been obvious at the time of the invention to one having ordinary skill to construct the bottom wall and boss to be separable

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components, because constructing formerly integral structure (i.e. bottom wall having a boss) in various elements (i.e. bottom wall with a separable boss) involves only routine skill in the art and creates no unobvious or unexpected result. See *Nerwin v. Erlichman*, 168 USPQ 177, 179.

With regard to claim 29 as best as can be understood and claim 30, Mariutti does not disclose a side wall or lid made of plastic. It would have been obvious to one having ordinary skill in the art at the time of the invention to construct the side wall and lid of plastic or any material. A specific selection of material is well within the general skill of a worker to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See *In re Leshin*, 125 USPQ 416.

With regard to claim 31, Mariutti disclose said lid and said side wall of said bowl are relatively configured to be snap fit together (figs. 2-3).

With regard to claim 32, Mariutti does not disclose said lid and said side wall formed as a single integral unit. It would have been obvious at the time of the invention to one having ordinary skill in the art to construct the multi-piece side wall and lid configuration of Mariutti as an integral unit. Forming in one piece an article, which has formerly been formed in two or multiple pieces and put together, involves only routine skill in the art and creates no unobvious or unexpected result. See *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

With regard to claim 33, Mariutti discloses said side wall fixed to said bottom wall.

With regard to claim 34, Mariutti discloses said lid shaped as a receptacle. Examiner notes the lip/flange on the outer circumference of the lid (30) lends to a wall means and therefore a container or receptacle results.

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Response to Arguments

Applicant's arguments have been considered, however the arguments are deemed moot in view of the new ground(s) of rejection. Prior art reference Mariutti was made of record in the previous Office Action.

Conclusion

Due to the new grounds of rejection above, this Office Action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
October 27, 2004



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